



Memorandum

TO: CITY COUNCIL**FROM:** Mayor Chuck Reed**SUBJECT: 2007 MAYOR'S BIENNIAL
ETHICS REVIEW****DATE:** November 8, 2007

Approved

Chuck Reed

Date

*11/9/07***RECOMMENDATION**

1. Acknowledge the following work and changes accomplished during the past two years:
 - a. Twenty three of the thirty four Reed Reforms have been implemented. The city staff, the Sunshine Reform Task Force, and the Elections Commission are in the process of implementing the remaining reforms.
 - b. The Council approved and staff is implementing several recommendations from the Sunshine Reform Task Force Phase I Report. The Rules and Open Government Committee is currently considering the balance of the Phase I Report recommendations, and the Sunshine Reform Task Force is in the process of developing its Phase II Report.
 - c. Mayor and Councilmembers must disclose material facts regarding any Council item.
 - d. Mayor and Councilmembers must publicly disclose meetings with lobbyists before discussion of the item during a Council meeting.
 - e. Mayor and Councilmembers must file with the City Clerk statements disclosing outside income on a quarterly basis.
 - f. A new process is in place for disclosure of conflict of interest by Mayor, Councilmembers, board members, and commissioners.
 - g. The Council has enacted a policy for interaction between Councilmembers and city staff members ensuring that staff recommendations reflect their independent professional judgment.
 - h. The Council has approved a new Board and Commission Code of Conduct Policy for Councilmembers and members of city boards and commissions.
 - i. The new process Integrity Guidelines, conflict of interest policy, and administrative procedures for requests for proposals and negotiating contracts ensure integrity in awarding contracts.
 - j. The Revolving Door Ordinance was extended to prohibit former employees from lobbying for two years after leaving city employment.
 - k. The Council comprehensively expanded the Lobbying Ordinance and disclosure requirements.
 - l. The Council adopted a substantially revised comprehensive Expenditure and Reimbursement Policy for the Council and Mayor.
 - m. The Council approved the "Employee Values Project" and adopted the core values developed by a team of City employees.

CITY COUNCIL

Subject: 2007 Mayor's Biennial Ethics Review

11-08-07

Page 2

- n. The Council adopted grounds and procedures for removing Councilmembers or Mayor.
 - o. The Council has held regular Council hearings on local and statewide ethical issues.
 - p. The Council implemented a Council Assistants Certification training program on ethical issues.
 - q. The Council's Travel Policy has been updated.
2. Approve the following actions:
- a. Direct the City Attorney to draft a Charter amendment for Council consideration that would allow the Mayor and Councilmembers to abstain from voting on a decision if constituents would reasonably question the integrity of their decision.
 - b. Direct the City Attorney to draft a Charter amendment for Council consideration that would allow the Council, through a vote of the majority, to place Council Appointees on administrative leave. The placement of Council Appointees on paid administrative leave would not be deemed to be a termination or a disciplinary measure.
 - c. Direct the City Attorney to prepare an ordinance that would:
 - i. Eliminate Mayoral and City Council officeholder accounts by July 1, 2008.
 - ii. End officeholder account fundraising by February 1, 2008.
 - iii. End officeholder account expenditures by July 1, 2008.
 - d. As part of the mid-year budget actions, appropriate \$10,000 to each Council Office and \$25,000 to the Mayor's Office from the funds identified in the 2007-2008 Budget to offset the elimination of officeholder accounts. Prepare a resolution for Council approval that acknowledges that these funds are allocated annually to eliminate the need for officeholder accounts, that Councilmembers and the Mayor are expected to participate in community events and to engage in outreach efforts as part of performing their duties of office, and that it is permissible and expected that these funds will be spent for the public purposes as provided for in the Expenditure and Reimbursement Policy.
 - e. Direct the City Attorney to prepare an ordinance that would align the reporting cycle for the Disclosure of Fundraising Solicitations by Elected Officials to be consistent with the reporting cycle for candidate campaign statements.
 - f. Direct the City Attorney and City Clerk to research the feasibility and cost of an ordinance amendment to require all candidates for elected office and independent expenditure committees to electronically file their campaign statements with the City Clerk.
 - g. Direct the City Attorney and City Clerk to report to Council before the January mid-year budget review on the status of Council referrals to the Elections Commission regarding the actions that should be taken to ensure that independent expenditures comply with city ordinances and that the public can more easily monitor independent spending. The status report should include an analysis of any additional funding necessary to complete the work.
 - h. Direct staff to return to the Council in January 2008 with recommendations for a Council policy to provide guidelines for negotiations with bargaining units.

CITY COUNCIL

Subject: 2007 Mayor's Biennial Ethics Review

11-08-07

Page 3

BACKGROUND

To ensure that the City conducts its business in an open, fair, and ethical manner and provides for accountability to the public, it is essential that the City Council regularly review and update its policies and ordinances. Therefore, the City Charter requires the Mayor to conduct a biennial review of the City's Code of Ethics and related policies and ordinances and to bring recommendations as necessary to the City Council for approval. Over the past two years, new policy revisions have led to an increase in accountability, trust, and openness in our government. My biennial ethics review recommendations will help to raise the ethical standards of city government and make it easier for the public to know what the Mayor and Council do.

Charter Amendments

I have recommended two Charter amendments:

Charter section 600 currently requires the Mayor and Councilmembers to vote on a matter before the Council unless they are "disqualified from doing so by law." As a result, Councilmembers are occasionally required to vote when there is an appearance of a conflict of interest because the situation is not a legal conflict of interest. Councilmembers should be allowed to voluntarily abstain from such votes.

Revising the Charter language regarding Council Appointees will make clear that the Council has the power to take appropriate administrative action by a majority vote instead of the super majority (10 votes) required for termination of the City Auditor or Independent Police Auditor.

Ordinance Changes

The elimination of officeholder accounts will decrease the amount of fund raising necessary to carry out the duties of offices. The loss of that source of funding will be offset by an increase in Council Offices' appropriations from the HP Pavilion naming rights community fund, which was set aside in the last budget. That fund is scheduled to receive an increase in payments under the naming agreement sufficient to cover the appropriation.

Aligning the reporting cycle for fundraising solicitations and candidate campaign activities, and adopting an ordinance requiring electronic filing of campaign statements would increase the people's ability to monitor our fund raising activities.

Referrals

In 2006, the U.S. District Court threw out provisions of San Jose's election ordinance that limited contributions to political campaigns and overturned a ruling by the City Elections Commission. Referrals were made to the Elections Commission to allow the public to follow the activity of Independent Expenditure Committees during the election process. It is important that we have full disclosure and that we make it easier for the public to follow the money that gets spent by Independent Expenditure Committees.

A Council policy on negotiations with bargaining groups will assist the Council and staff to operate in good faith and help us to avoid potential unfair labor practices.